

ORIGINAL

Approved: S. Mort  
 SARAH MORTAZAVI  
 Assistant United States Attorney

Before: HONORABLE HENRY PITMAN  
 United States Magistrate Judge  
 Southern District of New York

18 MAG 2805

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UNITED STATES OF AMERICA	:	<u>SEALED COMPLAINT</u>
- v. -	:	Violations of 8 U.S.C.
MERVIN S. FERGUSON,	:	§§ 1326(a) & (b)(2)
	:	COUNTY OF OFFENSE:
Defendant.	:	BRONX
- - - - -	X	

SOUTHERN DISTRICT OF NEW YORK, ss.:

MATTHEW LEW, being duly sworn, deposes and says that he is a Deportation Officer with the United States Department of Homeland Security, Immigration and Customs Enforcement, and charges as follows:

COUNT ONE  
 (Illegal Reentry)

1. From at least on or about February 9, 2018, in the Southern District of New York and elsewhere, MERVIN S. FERGUSON, the defendant, being an alien, unlawfully did enter, and was found in, the United States, after having been removed from the United States subsequent to a conviction for the commission of an aggravated felony, without having obtained the express consent of the Attorney General of the United States or his successor, the Secretary for the Department of Homeland Security, to reapply for admission.

(Title 8, United States Code, Sections 1326(a) & (b)(2).)

The bases for my knowledge and the foregoing charge are, in part, as follows:

2. I am a Deportation Officer with the United States Department of Homeland Security, Immigration and Customs Enforcement ("ICE"), assigned to the United States Marshals Service Regional Fugitive Task Force, and I have been personally involved in the investigation of this matter. This affidavit is based in part upon my conversations with law enforcement agents and others and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

3. From my review of ICE records regarding MERVIN S. FERGUSON, the defendant, I have learned, among other things, the following:

a. FERGUSON is a native and citizen of Belize and is not and has never been a citizen of the United States.

b. On or about October 19, 1984, FERGUSON was admitted to the United States as a lawful permanent resident.

c. On or about September 20, 1996, FERGUSON was convicted in New York State Supreme Court, Columbia County, of Criminal Sale of a Controlled Substance in the Third Degree, in violation of New York Penal Law Section 220.39(01) ("1996 Conviction"). FERGUSON was sentenced to two to six years' imprisonment.

d. Based upon my training and experience with ICE, I understand that the aforementioned conviction qualifies as an "aggravated felony" within the meaning of Section 1326(b)(2) of Title 8 of the United States Code.

e. On or about April 15, 2010, FERGUSON was removed from the United States pursuant to an Immigration Judge's order ("2010 Removal").

4. Based on my review of relevant records, I know that on or about February 9, 2018, FERGUSON was arrested by the New York City Police Department ("NYPD") for, among other alleged offenses, Criminal Nuisance in the Second Degree, in violation of New York Penal Law Section 240.45 ("2018 Arrest").

5. I have reviewed a report prepared by a trained fingerprint examiner working for ICE who compared the fingerprint impressions taken of FERGUSON: on or about June 13, 1996 by the New York State Police in connection with FERGUSON's 1996 Conviction; on or about April 15, 2010 by ICE in connection with FERGUSON's 2010 Removal; and on or about February 9, 2018 by the NYPD in connection with FERGUSON's 2018 Arrest. The fingerprint impressions were linked to one and the same person, MERVIN S. FERGUSON, the defendant.

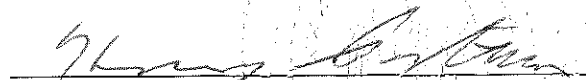
6. Based on my participation in this investigation, I know that a search of all relevant Department of Homeland Security indices has confirmed that, following his removal from the United States on or about April 15, 2010, MERVIN S. FERGUSON, the defendant, never obtained the express consent of the Attorney General of the United States, or the Secretary for the Department of Homeland Security, to reapply for admission to the United States.

WHEREFORE I respectfully request that a warrant be issued for the arrest of MERVIN S. FERGUSON, the defendant, and that he be arrested, and imprisoned or bailed, as the case may be.



MATTHEW LEW  
Deportation Officer  
Immigration and Customs Enforcement

Sworn to before me this  
4<sup>th</sup> day of APRIL 2018

  
HONORABLE HENRY PITMAN  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK